

FILED
LODGED
OCT 16 2007
AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
DEPUTY
BY

04-CV-01289-ORD

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

LEON EUGENE MILLER,) CASE NO. C04-1289-MJP
Petitioner,)
v.) ORDER GRANTING § 2254 PETITION
GARY FLEMING,)
Respondent.)

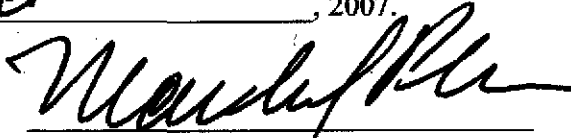
The Court, having reviewed petitioner's petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, the supplemental briefs submitted by the parties, the Report and Recommendation of the Honorable Mary Alice Theiler, United States Magistrate Judge, objections thereto, and the balance of the record, does hereby find and ORDER:

- (1) The Court adopts the Report and Recommendation;
- (2) Petitioner's petition for a writ of habeas corpus (Dkt. #4) is GRANTED. Petitioner's conviction in Spokane County Superior Court Case No. 00-1-01469-5 is VACATED; and

ORDER GRANTING § 2254 PETITION
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01 (3) The Clerk is directed to send a copy of this Order to all counsel of record and to
02 Judge Theiler.

03 DATED this 15 day of Oct, 2007.

04 
05 MARSHA J. PECHMAN
06 United States District Judge
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